

OPS Notice of Final Rule

“Hazardous Liquid Pipeline Accident Reporting Revisions” 49 CFR Part 195

Docket No. RSPA-01-8663

Summary of Rulemaking:

On March 20, 2001, the Research and Special Programs Administration (RSPA), Office of Pipeline Safety (OPS) published a Notice of Proposed Rulemaking for “Hazardous Liquid Pipeline Accident Reporting Revisions” and solicited comments from interested parties. The Washington Citizens Committee on Pipeline Safety (Committee) and the Washington Utilities and Transportation Commission, Pipeline Safety Division (WUTC) both provided comments on the proposed rule. On January 8, 2002, the RSPA published its final rule in this docket in the Federal Register.

The final rule amends the pipeline safety regulations to lower the reporting threshold for hazardous liquid (H/L) pipeline spills from 50 barrels (2100 gallons) to 5 gallons and makes changes to the accident report form. OPS stated that the changes were necessary because the previous reporting threshold and reporting form did not yield sufficient information for effective safety analysis.

OPS believed the consequence of small spills (between 5 gallons and 5 barrels) does not warrant the reporting to the extent justified for larger spills. Thus, the reporting requirement is minimized for these smaller spills *except* where a spill of 5 gallons or more occurs in water. In addition, small spills that occur during normal maintenance activities are also exempt if they are confined to the operator’s property or pipeline right-of-way and they are cleaned up without delay. A spill of 5 or more barrels, or any accident reportable by the already existing criteria specified in section 195.50, require complete reporting.

The criteria for reporting accidents currently found in 195.50 include:

- a) Explosion or fire not intentionally set by the operator.
- b) Loss of 50 or more barrels of hazardous liquid or carbon dioxide.
- c) Escape to the atmosphere of more than 5 barrels a day of highly volatile liquids.
- d) Death of any person.
- e) Bodily harm to any person resulting in loss of consciousness, the need to carry the person from the scene, need for medical treatment, or disability which prevents the discharge of normal duties or the pursuit of normal activities beyond the day of the accident.
- f) Estimated property damage, including cost of clean-up and recover, value of lost product, and damage to the property of the operator or others, or both, exceeding \$50,000.

Comments submitted to OPS:

The Committee submitted comments stating that they disagreed with RSPA's proposal to reduce the threshold for reportable spills from 50 barrels to 5 gallons. The Committee stated that it believed sufficient information could be acquired from pipeline operators by requiring reporting of incidents that involved release of 1 barrel or more. The Committee opined that the requirement of reporting all spills of 5 gallons or more appeared to be more stringent than was required by good practice and necessary record keeping.

The Committee also provided a comment on the reporting form, suggesting that RSPA consider adopting criteria developed by Kiefner and Associates.

Gregg Zimmerman, Administrator, Planning/Building/Public Works Department, with City of Renton also submitted comments on the subject NOPR. Mr. Zimmerman suggested that a requirement for immediate notification of the local public safety/emergency management agencies was critical. Mr. Zimmerman noted that these agencies are the first line responders and Renton's experience showed that often they are not contacted in the event of a leak for hours or even days.

The WUTC submitted comments supporting the proposed revisions to the reporting requirement from 50 barrels to 5 gallons. In addition, the WUTC also suggested that OPS consider changing the term "accident" to "incident" on the reporting form to make it consistent with the natural gas rules and also because not all "incidents" are "accidental." The WUTC suggested that liquid pipeline operators be required to file annual reports summarizing pipeline mileage, inventory by diameters, causes of leaks and spills, and summary results of internal inspections. Finally the WUTC suggested OPS require pipeline operators make telephonic reports and send copies of written incident reports to states where an interstate transportation agreement between OPS and the state has been put in place.

RSPA response to comments:

In response to comments submitted by the Committee, OPS stated that they had worked with a joint data team composed of state, federal, and industry representatives to determine a reasonable accident reporting threshold. Higher reporting thresholds were said to have been considered, but OPS chose 5 gallons because they believed the benefit of reporting releases at the 5-gallon level outweighed the burden of collecting it. OPS stated that the benefit is primarily in increased awareness of pipeline releases, especially the frequency of small spills. OPS concluded by stating that the data team believed that a higher threshold than 5 gallons would still leave concerns about the lack of information about such spills, especially if they impacted water.

OPS did not respond directly to the Committee's comments on the reporting form. OPS also received detailed comments from the American Petroleum Institute (API) on revising the categories for property damage to more accurately define the categories and

make more sense to pipeline operators. OPS concurred with API and changed the form accordingly.

In response to Mr. Zimmerman's comment requesting additional notification requirements in the event of pipeline releases, OPS responded that they determined the recommendation was beyond the scope of the rulemaking.

OPS made no mention or acknowledgement of the WUTC comments in its Notice of Final Rule.